

**MINUTES OF THE MEETING  
OF THE  
BOARD OF PHYSICAL THERAPY**

**February 13, 2006**

**CALL TO ORDER**

Wayne Stuberg, Chairperson, called the meeting of the Board of Physical Therapy to order at 9:03 a.m., February 13, 2006 in Conference Room 6Y, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The meeting was duly publicized by distribution of the Notice of Meeting and Agenda ten (10) days prior to the meeting and posting the agenda at the entrance of the Department of Health and Human Services Regulation and Licensure at least twenty-four (24) hours prior to the meeting.

**Roll Call**

The following Board members and HHSS staff members were present at the meeting:

Wayne Stuberg, Chairperson, Professional Member  
Kent Dunovan, Professional Member  
Susan Jeffrey, Secretary, Professional Member  
Raymond Frew, Public Member

Diane Hansmeyer, Section Administrator  
Delores James, Credentialing Coordinator  
Patty Pierson, Credentialing Coordinator  
Mike Grutsch, Program Manager, Investigations  
George Pflager, Investigator

**Adoption of the Agenda**

Jeffrey moved, seconded by Dunovan, to adopt the agenda. Voting Aye: Stuberg, Jeffrey, Frew and Dunovan. Voting Nay: none. Not voting: None. Motion carried.

**Approval of Minutes**

Frew moved, seconded by Jeffrey, to approve the minutes of the October 27, 2005 and November 14, 2005 meetings. Voting Aye: Jeffrey, Frew, and Dunovan. Voting Nay: none. Abstain: Stuberg. Not voting: none. Motion carried.

**INVESTIGATIONAL REPORT(S) (Closed Session)**

Stuberg moved, seconded by Jeffrey, to go into closed session at 9:05 a.m. for the purpose of hearing investigational report(s) and protecting the reputation of individual(s). Voting Aye: Jeffrey, Frew, Dunovan and Stuberg. Voting Nay: none. Not voting: none. Motion carried. Dunovan left the meeting at 9:15 a.m. Dunovan returned at 9:26 a.m.

**Out of Closed Session**

Jeffrey moved, seconded by Stuberg, to come out of closed session at 9:47 a.m. Voting Aye: Jeffrey, Frew, Dunovan and Stuberg. Voting Nay: none. Not voting: none. Motion carried. Pflager and Grutsch left the meeting after it returned to open session.

## **ADMINISTRATIVE PENALTIES**

Stuberg addressed the issue of non-payment of administrative penalties by licensees. Hansmeyer said that the licensee receives a Notice of Administrative Penalty Assessment signed by the Division Administrator. The licensee has 30 days to send in his or her remittance. If the penalty is not received, a memo is sent to the Legal Section and a collection's proceeding begins. A copy of this memo is sent to the licensee. Stuberg proposed a Board policy, which would state that any individual who was sent to collections for recovery of administrative penalties would also be sent to investigations regarding the individual's lack of good moral character in not paying the assessed penalty within the required timeframe. Jeffrey seconded the motion. Voting Aye: Dunovan, Stuberg, Jeffrey and Frew. Voting Nay: none. Not Voting: none. Motion carried.

## **CONTINUING EDUCATION REQUIREMENTS**

Stuberg initiated a discussion regarding the use of the American Physical Therapy Association (APTA) credentialed residency and/or fellowship program to meet continuing education / competency requirements.

The clinical residency program is designed to substantially advance a resident's expertise in a defined area of clinical practice. The program should be completed within a minimum of 1,500 hours and in no fewer than nine (9) months and no more than 36 months.

A fellowship program is designed to provide greater depth in a specialty or subspecialty area than that which is covered in a residency program. A clinical fellowship program should be completed within a minimum of 1,000 hours and in no fewer than six (6) months and no more than 36 months.

In order to verify continuing education (CE) hours, the board felt the department should require a letter of participation from the residency/fellowship program that confirms participation and start dates. Dunovan noted that because the program could be extended over a 36-month period that the CE hours could cross over from one renewal period to the next. Discussion continued regarding the allowance of one hour per month of confirmed participation from the start date of the program in order to prevent duplicative count of hours. The board believes it would be appropriate to allow all CE hours to be earned in a residency or fellowship program if the licensee elected.

Stuberg moved that we amend the rules and regulations at 137-022.01F and add another category to include APTA Residency and/or Fellowship Program(s) as additional options for acceptable continuing education hours. A letter verifying participation would be required from the agency providing the program and one hour would be awarded for each month of participation. Jeffrey seconded the motion. Voting Aye: Stuberg, Jeffrey, Frew and Dunovan. Voting Nay: none. Not voting: none. Motion carried.

## **JURISPRUDENCE EXAMINATION**

Hansmeyer stated that the board's intent on requiring applicants to take the Jurisprudence Examination prior to licensure was so they knew the laws regarding their credential. The board discussed the merit of licensees re-taking the Jurisprudence Examination and the need for licensees to remain current on the statutes, rules and regulations. Allowing the Jurisprudence Exam to be a continuing education activity would address this need. Jeffrey moved and Dunovan seconded the motion to amend the rules and regulation to allow for an additional category to be

added as an acceptable continuing education activity. This category would allow five (5) continuing education hours to be earned for individuals passing the Jurisprudence Exam. Voting Aye: Jeffrey, Frew, Dunovan, Stuberg. Voting Nay: none. Not voting: none. Motion carried.

Building on the discussion of the merit of the Jurisprudence Examination, the board further discussed the idea of requiring the Jurisprudence Exam to be taken for acceptable continuing education hours every third renewal period. Dunovan brought up an issue of logistics for therapists who live west of Kearney. For some, in addition to the \$75 required examination fee, there would also be a 3-4 hour drive to the nearest testing site. An option of having the exam sent to those individuals who can demonstrate hardship due to travel was discussed. Dunovan asked how many states had made similar requirements of their licensees. Hansmeyer said she would inquire at The Federation of State Boards of Physical Therapy (FSBPT) and report that number to the board. The FSBPT supports such continuing education activities at the state level. Stuberg volunteered to write a draft letter for Hansmeyer's review. This letter would lay the groundwork for generating an understanding among practitioners regarding the proposed regulation change. It would emphasize the reoccurring issues of physical therapists not knowing the statutes, rules and regulation relating to physical therapy. This requirement would serve to be a mechanism to correct this deficiency. Once approved, the letter would be sent to all licensees along with a map of testing sites asking for each licensee's input and also sent to the Board of Directors at the Nebraska Physical Therapy Association.

### **2006 FEDERATION BUDGET**

Stuberg presented the Federation of State Boards of Physical Therapy (FSBPT) 2006 Operating Budget for the board's review (Attachment A). Stuberg reported that the Federation is in outstanding financial state and is looking at purchasing another building. Stuberg offered to answer any questions. Dunovan asked about examination fees and if there was a benchmark for which we could use to gauge examination fees. Stuberg said that he was not aware of any benchmark value system. Stuberg said the exam format was very expensive to produce and the Federation aggressively sought to keep the exam from being compromised.

Hansmeyer asked what Stuberg's impression was of the Federation's activities. Stuberg said that as long as we trust staff that operations were occurring as reported the entire operation is very comprehensive and impressive. He said it was one of the best budget review situations he had ever experienced. When questions were asked of the Federation staff, the answers, he believed were forthright and complete. Stuberg felt that discussions regarding the examination process were inclusive of the concerns of state representatives.

### **LEGISLATIVE UPDATE**

Stuberg reported that additional meetings had occurred between the Nebraska Physical Therapy Association, Lincoln Public Schools (LPS), Senator Jensen and other interested parties regarding Medicaid reimbursement issues LPS is facing. Specifically, LPS was reported to have billed Medicaid for physical therapy activities, which are performed by school paraprofessionals who had not received on-site supervision from a physical therapist. LPS would like to have changes made to the Practice Act, which would exempt paraprofessionals from being credentialed, but allow them to provide physical therapy services while in school. Another issue was to provide clarity in the statute that services provided by teachers or aides were allowable if instructed by a therapist, with this service being called personal assistant services. It was communicated back to Senator Jensen's office that the Physical Therapy Association found the former to be unacceptable. The type of billing activity that LPS is using is not unique to LPS. Other states

have school districts who were also billing in a similar manner and who are being reviewed by the General Accounting Office. The Nebraska Physical Therapy Association is continuing its work to get LB445 passed during the 2006 legislative session.

### **LICENSURE FEE REVIEW FOR 2007-2008**

Hansmeyer presented information regarding the Licensure Fee Review for 2007-2008. The worksheet provides revenue and expenditures, which results in the cost per credential (Attachment B). Based on the information provided, the Board chose not to change the fees for 2007-2008.

### **FUNDS TO PHYSICAL THERAPY ASSOCIATION**

In light of the current fund balance projections for 2007-2008, the Board will not be able to fund any other projects.

### **OLD BUSINESS**

No old business to discuss.

### **NEW BUSINESS**

#### **Regulation Revision of Chapter 25**

On behalf of the board, Stuberg expressed appreciation that The Department of Health & Human Services had given them a draft copy of the Chapter 25 amendments. In reviewing the draft, the board respectfully made some suggestions as an initial review, but not as a final board opinion. First, at 25-001.02A the board would like to note that the Department of Health and Human Services does not license Physical Therapist Assistants; they are certified. Second, at 25-003.04B it should read, "Personal Assistance Services provided in conjunction with Physical Therapy but performed by a Physical Therapy aide or other paraprofessional shall be provided in conjunction with Nebraska Statute and Rules and Regulations of Physical Therapy." Third, at 25-005 there should be a fourth category for Personal Assistant Services. Finally, at 25-003.04 at the first bullet it should be noted that personal assistant services do not fall under the definition of related services. Dr. Stuberg volunteered to draft an official response from the Board, disseminate the draft to the Board members for approval, and then forward the information to Jon Sterns, who coordinates the Regulation 25 activities regarding billing to Medicaid for special education services.

The board looks forward to reviewing the next draft.

#### **2005 Renewal Report**

The renewal report was discussed (Attachment C).

#### **NE Jurisprudence Pass Rate**

This was already covered in prior discussion of the Jurisprudence Examination.

### **Board/Staff Duties and Responsibilities**

Hansmeyer asked that the board members review the responsibilities of the board and staff. Stuberg moved and Jeffrey seconded approval of the Board and Staff Duties. Voting Aye: Frew, Dunovan, Stuberg, and Jeffrey. Voting Nay: none. Not voting: none. Motion carried.

### **Complaint Screener/Investigative Consultant**

Stuberg explained the current process for when a complaint comes in and the board agreed to continue with the current process with Jeffrey as complaint screener.

### **Accreditation in Physical Therapy Education (November 22, 2005)**

Stuberg moved and Jeffrey seconded a motion to accept the listing of schools accredited by the Commission on Accreditation in Physical Therapy Education as programs acceptable to the Board as a prerequisite for licensure in Nebraska. Voting Aye: Dunovan, Stuberg, Jeffrey, Frew. Voting Nay: none. Not voting: None. Motion carried.

### **Election of Officers**

Stuberg moved and Dunovan seconded the following election slate: Stuberg as Chair, Jeffrey as Vice Chair, and Frew as Secretary. Voting Aye: Stuberg, Jeffrey, Frew, and Dunovan. Voting Nay: none. Not voting: none. Motion carried.

### **FSBPT 2005 Membership Dues**

Jeffrey moved and Frew seconded a motion to pay the Federation of State Boards of Physical Therapy dues of \$1815.50. Voting Aye: Jeffrey, Frew, Dunovan, and Stuberg. Voting Nay: none. Not voting: none. Motion Carried.

### **MISCELLANEOUS**

The board set the following Board Meeting Schedule for 2006: April 24<sup>th</sup>, August 14<sup>th</sup>, November 27<sup>th</sup>. All meetings will begin at 9 a.m. Stuberg mentioned that additional meetings might be necessary to discuss changes to Rules and Regulations.

### **ADJOURNMENT**

Stuberg adjourned the meeting at 12:49 p.m.

Respectfully submitted,

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Raymond Frew, Secretary